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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

KIRKPATRICK, CARLTON RUSSELL
KIRKPATRICK, LEIGHA KRISTEEN

Debtor(s),

CASE NO.: BK-S 09-12769-LBR
IN CHAPTER 11 PROCEEDINGS

**3717 MISTY FALLS STREET,
LAS VEGAS, NV 89129**

Hearing Date: July 28, 2010
Hearing Time: 1:30 p.m.

OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY

COME NOW, CARLTON RUSSELL KIRKPATRICK and LEIGHA KRISTEEN KIRKPATRICK (hereinafter the “Debtors”), by and through their attorney, CHARLES T. WRIGHT, ESQ., of the law firm of PIET & WRIGHT, and respectfully request this Court to deny the MOTION FOR RELIEF FROM THE AUTOMATIC STAY filed by **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HIS ASSET SECURITIZATION CORPORATION MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-WMC1**, by and through its attorney, GREGORY L. WILDE, ESQ. of WILDE & ASSOCIATES, as follows:

POINTS AND AUTHORITIES

11 U.S.C. Section 362(d)(1) states that the Court may terminate, modify or condition stay

1 "for cause, including the lack of adequate protection of an interest
2 in property of such party in interest;---"

3 11 USC Section 362(d)(2) the Court may terminate, modify or condition a stay
4 "with respect to a stay of an act against property under subsection
5 (a) of this section, if –

- 6 (A) the debtors do not have an equity in such property AND
7 (B) such property is not necessary to an effective
reorganization"

8 **STATEMENT OF FACTS**

9 Debtors' property has liens of approximately \$253,824.40 for the property
10 located at 3717 Misty Falls Street, Las Vegas, NV 89129. Debtors believe that they do
11 not have any equity in the property.

12 This property is necessary to an effective reorganization as an income
13 generating rental property.

14 11 U.S.C. Section 361(1) may apply as:

15 1. Debtors acknowledge that if they are late on the post petition payments,
16 they will need some time to acquire the necessary funds to cure all post-petition
17 arrearages.

18 2. Debtors intentions are to stay current on future post-petition payments.

19 3. This property is subject to setoff to U.S.C. Sections 506 and 1123(b)(5).

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21 ...

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1 THEREFORE, Debtors request that the Motion filed be denied under 11 U.S.C.
2 Section 362(d)(1) or (2), and that any action on creditor's behalf be stayed for an
3 adequate amount of time to allow Debtors to become current on the post petition
4 arrearages and/or to stipulate to an Interim Order Pledging Rents.
5

6 Dated this 12th day of July, 2010.

7 Respectfully submitted,

8 PIET & WRIGHT

9 By: /s/ Charles T. Wright

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